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Of Attorneys for Defendant Coast Cutlery Co.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

LEATHERMAN TOOL GROUP, INC.,
an Oregon corporation,

Plaintiff,

vs.

COAST CUTLERY CO., an Oregon
corporation,

Defendant.

No. CV11-615 HZ

**DECLARATION OF MICHAEL J. RILEY,
IN SUPPORT OF DEFENDANT'S
MEMORANDUM IN OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

I, Michael J. Riley, do hereby declare:

1. I am the president/research director of Riley & Associates, Inc. dba Riley Research Associates, a market research and polling firm located in Portland, OR. I have been engaged by Coast Cutlery Co. ("Coast") to perform certain consumer survey research designed

to measure consumer associations and perceptions regarding certain types of stainless steel and associated hardness ratings. I have personal knowledge of the facts and other information set forth herein, and if called as a witness, I could and would testify accordingly.

2. I have over thirty (30) years of experience in quantitative market research study design, coordination and analysis, in addition to experience in all phases and techniques of qualitative market research studies. I am the past-president of the Oregon Chapter of the American Marketing Association and am an accredited member of the Public Relations Society of America. I have participated in, designed or managed more than 1,000 market research studies. As a result of my educational and professional background, I have substantial experience with consumer decision making in general, and more particularly, those factors that influence consumer purchasing decisions. A true and correct copy of my *curriculum vitae* is attached to this declaration as Exhibit A.

3. It is my understanding that Leatherman Tool Group, Inc. (“Leatherman”) has alleged that Coast’s description of its products as “high quality” constitutes false advertising. In my opinion, consumers have been well-conditioned to look past any alleged claims of product quality with respect to consumer advertising. This is true because nearly every seller of consumer products makes some claim to product quality. A claim of product “quality” is therefore not likely to have an effect on the average consumer’s purchasing decision, as factors such as price, brand and other specific features will likely have the predominant influence.

4. It is also my understanding that Leatherman has claimed that one of the types of harm that it will suffer should an injunction against Coast not be granted is the tarnishment or devaluing of knife and multi-tool products made from high quality steel. In my opinion, the company most likely to be harmed should a consumer be dissatisfied with a Coast product is Coast. Consumers are, by their nature, brand oriented. Thus, prior experience with a particular brand – both good or bad – is likely to have an impact on future purchasing decisions regarding that brand. If a consumer has a negative experience with a company’s goods or services, then

that consumer will most likely not purchase goods or services from that company again, and is also more likely to inform his or her friends, family members or co-workers of that negative experience. Thus, consumer dissatisfaction with a particular company's goods or services works in favor of the company's competitors and not to their detriment.

5. In the course and scope of my engagement by Coast, I designed and supervised a market research survey of approximately 400 consumers who had either purchased a knife or multi-tool product in the past two years, or who were likely to purchase a knife or multi-tool product in the next twelve months. Based on the results of this survey, it is my opinion that whether a knife or multi-tool product is advertised as being made from 440C stainless steel or 420 stainless steel has little to no impact on the average consumer's purchasing decision. It is also my opinion that whether or not a knife or multi-tool product is advertised as having a hardness value of between 57 to 59 HRC has little to no impact on the average consumer's purchasing decision. A true and correct report summarizing the survey results is attached as Exhibit B to this declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 10th day of August, 2011.



Michael J. Riley